

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Telephone Number Portability)	CC Docket 95-116
)	
North Carolina RSA 3 Cellular Telephone Company)	
dba Carolina West Wireless)	
)	
Petition for Limited Waiver and Extension of)	
Section 52.31 of the Commission's Rules)	
To: Chief, Wireless Telecommunications Bureau		

**PETITION FOR LIMITED WAIVER AND EXTENSION
OF TIME TO PORT NUMBERS TO WIRELESS CARRIERS**

1. North Carolina RSA 3 Cellular Telephone Company dba Carolina West Wireless ("Petitioner"), by its attorneys, hereby requests a temporary waiver of Section 52.31 of the Commission's rules, and an extension of the May 24, 2004 date for initiation of wireless local number portability ("WLNP") services. In particular, Petitioner seeks a temporary waiver of up to ninety days of the requirement that Commercial Mobile Radio Services ("CMRS") carriers who have received a request from another wireless provider to make available within six months a long-term database method supporting number portability. Petitioner's request for additional relief is specific, focused, and limited in scope. Petitioner has undertaken concrete steps to come as close as possible to full compliance and has a clear path to full compliance.

I. Background

2. Petitioner is a rural provider of CMRS, offering cellular radiotelephone services in North Carolina RSA's 2 and 3, which are outside the largest 100 Metropolitan Statistical Areas (MSAs). Petitioner has received requests to implement wireless number portability by May 24, 2004. In preparing to do so, Petitioner has encountered temporary obstacles and, for the reasons stated herein, Petitioner seeks additional time to complete the tasks necessary to implement WLNP services.

A. Deployment of WLNP

3. Petitioner has been diligent in pursuing the services and technology necessary to offer WLNP. In January 2002, Petitioner executed NeuStar's Confidentiality and Non-Disclosure agreement. In September 2003, Petitioner contracted with Syniverse for WLNP services. The services included the preparations for number porting and providing an electronic interface to process number porting. Petitioner, which interconnects with several affiliated rural telephone companies, uses Type 1 Numbers. At that time, Syniverse did not indicate whether there may be porting issues with Type 1 Numbers. In December, 2003, Petitioner executed the Number Portability Administration Center/Services Management System (NPAC/SMS) User Agreement for the Southeast Region

4. In February 2004, Petitioner learned that NeuStar will require wireless carriers to have Type 2 numbers in order to participate in WLNP. As indicated above, Petitioner had Type 1 numbers and interconnected with several affiliated rural telephone companies since its inception. Again, Petitioner was never aware of any porting issues with Type 1 Numbers and its current interconnection method.

5. Petitioner immediately contracted with John Staurulakis Inc. (“JSI”) to migrate its Type 1 Numbers to Type 2 Numbers. This process included complete overhaul of its current interconnection method since Petitioner would now have to interconnect directly to the LATA tandems for mobile to land and land to mobile call completion. Petitioner’s current method of interconnection would not be possible once it migrates to Type 2 Numbers.

6. In March, 2004, Petitioner commenced interconnection negotiations with both Sprint and BellSouth. Petitioner also registered with Telcordia for call routing and applied with NeuStar for new codes for Location Routing Number (“LRN”) assignment. In April, 2004, new NXX-X codes were assigned to Petitioner and LRNs registered. In May, 2004, BellSouth informs Petitioner that, because its switch is physically located outside of the Charlotte LATA, it will have to apply for an “assembly permit” in order to cross LATA boundaries for compliance with certain state and/or federal regulations. This process is expected to take several weeks.

7. At this time, Petitioner must finalize its interconnection with Sprint, who will not process interconnection circuits without an agreement between the parties. Petitioner must also complete interconnection with BellSouth, which is expected within three to four weeks. Most importantly, Petitioner must complete conversion of its current Type 1 Numbers to Type 2 Numbers via pooling reassignment. JSI has informed Petitioner that it will take about a month once interconnection with Sprint and BellSouth are complete. Finally, Petitioner plans to test the new interconnections not only with its new code assignments but also with number blocks migrated from the Type 1 Number designation.

8. In sum, Petitioner seeks to deploy WLNP as soon as interconnection is complete, Type 1 Numbers are migrated to Type 2 Numbers, and the system is tested. Petitioner does not seek to deny or delay WLNP, and is acting in a manner consistent with the Commission’s directives

announced in *Memorandum Opinion and Order*, 18 FCC Rcd. 20971, CC Docket 95-116, FCC 03-237 (rel. October 7, 2003).

B. Special Circumstances Justify Temporary Waiver

9. Petitioner plans to deploy WLNP as soon as the described interconnection and numbering issues are resolved. As a result of being informed in early 2004 that Type 2 Numbers are required for WLNP, Petitioner was forced to change the way it interconnects—that is, from interconnecting with several affiliated rural telephone companies to interconnecting with Sprint and BellSouth. Further, only now has Petitioner realized that extra time is necessary for JSI to complete the final tasks of migrating Petitioner’s Type 1 number to Type 2 Numbers, which is a required in order to effectuate Petitioner’s WLNP deployment. Petitioner does not anticipate delays from any other factors. For example, Petitioner’s wireless switch is LNP capable and Petitioner is financially capable of executing its WLNP responsibilities.

10. The Commission has recognized that carriers may require some additional time to prepare for implementation of number portability. Petitioner sets forth herein its need for minimal additional time to achieve readiness to port numbers to wireless carriers. In accordance with the provisions of *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 18 FCC Rcd. 23697, at para. 30, CC Docket 95-116, FCC 03-284 (rel. November 10, 2003), Petitioner has provided the Commission with “substantial, credible evidence that there are special circumstances that warrant departure from existing rules.” The final steps toward WLNP are delineated, and Petitioner has a detailed path to compliance.

11. Generally, the Commission’s rules may be waived when there is good cause shown¹ and “when special circumstances warrant deviation from the general rule, and such deviation will

¹ 47 C.F.R. § 1.3.

serve the public interest.”² The Commission has recognized that individual waiver requests that are “specific, focused and limited in scope, and with a clear path to compliance” may be granted where due to “technology-related issues” or “exceptional circumstances,” a carrier is unable to meet the established deadline.³ Petitioner’s request satisfies this standard.

12. Petitioner presents herein a waiver request that is specific, focused and limited in scope. Petitioner has made good faith efforts to deploy WLNP by implementing all stages of the process that have been achievable to date, and seeks only a temporary waiver permitting additional time to complete the final step toward compliance.

13. Petitioner foresees no harm to the public interest as a result of the short delay. Petitioner has received no porting requests or inquiries from customers, and Petitioner’s request for relief is limited to the time necessary for implementation of its interconnection with Spring and BellSouth, to complete the conversion of its Type 1 Numbers to Type 2 Numbers, and to ultimately test its WLNP capabilities. This should not adversely impact wireless users in Petitioner’s rural service area or the public at large.

14. The Commission itself has recognized that smaller carriers often lack expertise and technical experience with number porting, and that it is in the public interest to allow such carriers additional time to begin porting and to “implement and test the necessary system modifications to ensure reliability, accuracy, and efficiency in the porting process.”⁴ The

² Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990) citing WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

³ See, WAIT Radio v. FCC, 418 F.2d 1153, 1158 (D.C. Cir. 1969).

⁴ See, *Order*, at para. 9 CC Docket No. 95-119, FCC 04-12, released January 16, 2004, granting a six-month extension of time for local exchange carriers with fewer than two percent of the nation’s subscriber lines operating in the top 100 MSAs to comply with the wireline-to-wireless porting requirement, referred to as the “*Two Percent Order*.”

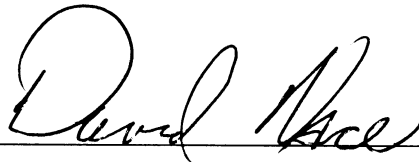
Commission has found that in situations such as the one presented herein, a limited extension of time to commence porting will not adversely impact rural customers.⁵

III. Conclusion

15. For the reasons set forth above, Petitioner requests a temporary waiver and extension of time of up to ninety days, through August 23, 2004, to implement WLNP services. The public interest benefit in this case equals or exceeds that which the Commission has found in other instances to be sufficient for waiver. Accordingly, Petitioner requests that a waiver and temporary extension be granted as proposed.

Respectfully submitted,

**NORTH CAROLINA RSA 3 CELLULAR TELEPHONE
COMPANY DBA CAROLINA WEST WIRELESS**

By: _____

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May 21, 2004

⁵ *Id.*, at para. 11.

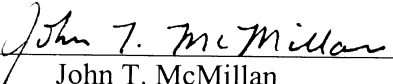
DECLARATION

I, John T. McMillan, hereby state and declare:

1. I am General Manager of North Carolina RSA 3 Cellular Telephone Company dba Carolina West Wireless.
2. I am familiar with the facts contained in the foregoing "Petition for Limited Waiver and Extension of Time to Port Numbers to Wireless Carriers," and I verify that those facts are true and correct to the best of my knowledge and belief, except that I do not and need not attest to those facts which are subject to official notice by the Commission.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 20th day of May, 2004.



John T. McMillan

CERTIFICATE OF SERVICE

I, Steven McCord, an employee in the law offices of Lukas, Nace, Gutierrez & Sachs, Chartered, do hereby certify that I have on this 21th day of May, 2004, sent by U.S. mail, first-class delivery, a copy of the foregoing Petition for Limited Waiver and Extension of Time to Port Numbers to Wireless Carriers to the following:

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